



**OFFICE OF THE TOWN ADMINISTRATOR
MEMORANDUM**

TO: Board of Selectmen

FROM: Melvin A. Kleckner, Town Administrator

RE: Brookline's Sanctuary City Status

DATE: December 30, 2016

At our meeting on Tuesday evening, the Board of Selectmen will discuss the status of prior Town Meeting resolutions (1985 and 2006) affirming Brookline as a "Sanctuary City" and to review the merits of the Police Department's policy of complying with the federal Secure Communities Act (now referred to as the Priority Enforcement Program). In addition to an overview of the PEP, we have included policies and ordinances from other Massachusetts communities for your reference, including Boston, Cambridge, Somerville, Newton and Amherst. The Chief of Police will be present at the meeting and will review the evolution of the Department's policies and practices and its current status.

We look forward to the Board's discussion and policy direction in this matter.

cc: Daniel O'Leary, Chief of Police
Lloyd Gellineau, Director of Diversity, Inclusion, and Community Relations

The Selectmen recommend FAVORABLE ACTION on the following vote:

VOTED: that the town adopt the following resolution:

BE IT HEREBY RESOLVED THAT:

The Town of Brookline become a sanctuary for refugees from El Salvador, Guatemala, and Haiti, and that they shall be afforded all rights and privileges offered and supplied to all people residing or working in the Town;

it is the policy of the Town that, to the extent legally possible, no department or employee of the Town will violate established or future sanctuaries by officially assisting or voluntarily cooperating with investigations or arrest procedures, public or clandestine, relating to alleged violations of immigration law by refugees from El Salvador, Guatemala, or Haiti or by those offering sanctuary;

the Town supports and appreciates its residents who may provide bedding, food, health and other settlement assistance, as well as friendship to refugees from El Salvador, Guatemala, and Haiti; and the Town will not participate in any form in the compounding of injustice against these refugees or in the Federal Government's persecution of those who in good faith offer humanitarian assistance to these refugees;

the Town supports all efforts intended to provide free, effective legal representation for any person residing in Massachusetts, who is seeking asylum in the U.S. because of fear of persecution in his or her homeland, including Mass. Senate Bill #1063 sponsored by Senator Jack Backman;

and that the Town Clerk shall communicate this resolution to all departments of the Town, the Massachusetts delegation to the Congress of the United States, our representative in the Great and General Court of the Commonwealth, the local and national Directors of the Immigration and Naturalization Service, and to President Ronald Reagan.

Brookline Town Meeting
November, 1985

RESOLUTION Reaffirming Sanctuary Status for Undocumented Immigrants:

Adopted by the Brookline Town Meeting in November, 2006

WHEREAS: The Town of Brookline has been built and enriched by generations of immigrants, and has a proud history since November, 1985, as a Sanctuary for refugees from El Salvador, Guatemala, and Haiti;

WHEREAS: There are now approximately 12 million undocumented immigrants in the USA who have been systematically denied the opportunity enjoyed by past generations of immigrants to become legal permanent residents or citizens of this country; over the past two decades, immigration policy has become even more restrictive and punitive and closed off avenues previously available for immigrants to obtain legal permanent residency, while the US-Mexico border has been further militarized;

WHEREAS: While borders have been closed off to people over the past two decades, they have been simultaneously opened up to trade and capital; these same "free trade" economic policies have increased poverty and decreased opportunities for people to make a dignified living and support their families;

WHEREAS: In 2005, record numbers of migrants seeking to support their families, with no means to migrate safely into the USA, perished in the desert along the US-Mexico border, while countless others died in the journey; and the migration experience has adverse emotional and psychological effects on families, kept apart for many years due to unjust immigration policies and backlogs in visa applications; and undocumented immigrants are especially vulnerable to workplace abuses and housing discrimination;

WHEREAS: Current US immigration policy does not reflect the standards of Brookline residents regarding what is just, humane and moral; and both undocumented and documented immigrants in the U.S. fuel our economy and those of their countries of origin;

WHEREAS: On December 16, 2005, the House of Representatives passed HR-4437, which would have drastic consequences for nearly all immigrants to this country, their families, their neighbors, and those who support them; and the US Senate has been considering a companion bill that contains many of the same counterproductive, misguided measures, including criminalization of immigrants and those who help them, further militarization of the border, turning police into immigration agents, and the erosion of cherished legal traditions such as due process; and the US Senate is also considering guest worker programs that would create a second-class citizenry without basic rights, disenfranchised and vulnerable to exploitation by unscrupulous employers;

WHEREAS: Much public discourse surrounding immigration has taken a tone ranging from irrational to racist, including the pejorative use of terms like "illegal" and "alien" to describe immigrants, with a dehumanizing effect that helps to justify policies criminalizing and excluding immigrants;

WHEREAS: Raids by the federal government, ranging from the highly publicized, nationwide workplace raids on April 17, 2006, that resulted in the arrest of 1,187 employees to the less widely known sweeps of homes such as occurred in Massachusetts on March 6, 2006, have

instilled fear and panic in immigrant communities and created environments that are ripe for intimidation, harassment and racial profiling;

WHEREAS: Following the raids in April of this year, the US Homeland Security Secretary announced plans to intensify such enforcement measures, an announcement that came in the midst of unprecedented numbers of immigrants demonstrating in defense of their dignity, against HR-4437, and for an opportunity to obtain legal permanent residency; and

WHEREAS: Numerous cities, including Maywood, Huntington Park, and Coachella, CA have recently declared themselves Sanctuary Cities, and cities from Cambridge MA (May 8, 2006) to Chicago and San Francisco have reaffirmed their earlier commitments as Sanctuaries,

THEREFORE, BE IT HEREBY RESOLVED THAT:

1. The Town of Brookline reaffirms its commitment as a Sanctuary Town, as declared by Town Meeting in November, 1985, and expands it now to include all undocumented immigrants from all countries;¹
2. The Town endorses the platform of the Keep Our Families Together Campaign, an initiative of the National Alliance of Latin American and Caribbean Communities that seeks to (a) enable immigrants who currently live and work in the United States to obtain Permanent Resident status and have the option to apply for citizenship; (b) increase the number of visas available in the quota system with a preference for family unification; (c) establish a limit of no more than six months for the processing and resolution of immigration applications; (d) facilitate the integration and participation of immigrants into the political, social and economic life of this country; and (e) enable future immigrants to enter the United States under a legal system that is just and respectful of human rights;
3. The Town calls upon the US Department of Homeland Security and the US Immigration and Customs Enforcement to declare a moratorium on immigrant raids, at least until the US Congress comes to an agreement on comprehensive immigration reform, so that the debate can be carried out in good faith rather than against a backdrop of fear, repression and intimidation;
4. The Town affirms the basic human rights and dignity of every human being;
5. The Town rejects the use of the word "illegal" to describe human beings and the use of the word "aliens" to describe immigrants, and hereby adopts the language "undocumented" when referring to those who do not have federally recognized resident status and "immigrant" to refer to those who have migrated to the US from another country;
6. The Town of Brookline urges the US Senate to defeat HR 4437 and urges the President to veto such legislation if approved by the Senate; and
7. The Town Clerk shall forward a copy of this resolution on behalf of the Town of Brookline to the Massachusetts Congressional delegation and to the President of the United States.

Memorandum

To: T.A. Melvin Kleckner
CC:
From: Chief Daniel C. O'Leary
Date: 11/23/2016
Re: Secure Communities

Sir,

The Secure Communities Initiative is a federal information sharing partnership between the Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigation (FBI) that helps to identify undocumented persons with criminal records without imposing new or additional requirements on state and local law enforcement. For decades, the Brookline Police Department (BPD) has shared fingerprints of all individuals who have been placed under arrest for criminal offenses to verify their true identity and to determine if they maybe wanted in other jurisdictions.

Under the Secure Communities Initiative, the FBI automatically sends the arrestees fingerprints to ICE to check against immigration databases. These checks would reveal if the arrestee is known to be unlawfully present in the United States, or is otherwise removable due to a criminal conviction. When ICE determines that an arrestee is removable, they will take action by prioritizing the removal of individuals who present the most significant threat to public safety as determined by the severity of the crime committed, criminal history, as well as those who have repeatedly violated immigration laws.

All prisoners taken into custody by the BPD are fingerprinted during the booking procedure. These fingerprints are electronically transmitted to the Massachusetts State Police (MSP) Identification Unit. The MSP will compare these fingerprints through the MSP Automated Fingerprint Indentation System (AFIS) criminal data base as well as transmit them to the FBI to be compared in the National AFIS criminal database.

CHIEF OF POLICE

The FBI will transmit these fingerprints to the Department of Homeland Security (DHS) in order for ICE to determine if the arrestee is removable based on their criteria. The length of time for this process will average for 2-3 hours.

When it is determined by ICE, that an arrestee is removable, ICE will file an emergency immigration detainer with the BPD. ICE will notify the BPD through the Criminal Justice Information System (CJIS). ICE will also fax a copy of the detainer to the BPD, at which point it is requested that a copy of this detainer be given to the arrestee, explaining that DHS is intending on assuming custody of the prisoner. This detainer would require this agency to retain custody of the arrestee for a forty eight (48) hour period commencing upon release on bail or arraignment.

In cases when the arrestee is arraigned in Brookline District Court (BDC), the detainer would be sent as part of the arrestee's document package, and the Norfolk County Sheriff's Office would take custody of the arrestee for the 48 period after arraignment.

In cases when the arrestee is bailed, the BPD would be responsible for ensuring that the arrestee is held for the 48 period. These instances are very unlikely to occur for several reasons including;

- The bail set by the Bail Commissioner would likely be unattainable by the arrestee after Bail Commissioner is informed of the DHS detainer.
- The arrestee may not wish to be bailed after they are advised that they will still be held after they pay the bail fee.

On most occasions, the arrestee will decide to wait for the next opening of court in order to be arraigned, which places the burden of holding the arrestee on the Sheriff's Office.

The BPD has been following this procedure since 2012, which under most circumstances eliminates the need for BPD initiated telephone requests to ICE Field Offices. Only in the rarest of incidences, based on the nature of the crime would BPD initiate telephone requests for information through ICE Field Offices.

Melvin Kleckner

From: Mark Morgan
Sent: Friday, December 02, 2016 12:54 PM
To: Melvin Kleckner
Cc: Daniel OLeary
Subject: RE: Sanctuary City Ordinances/Resolutions/Executive Orders ?

Mr. Kleckner,

Chief O'Leary asked for me to respond to your question on the differences between our existing BPD Policy and those of Cambridge, Somerville and Cambridge.

Our BPD Policy was written and issued two years prior (May 2012) to the other communities policies/orders/resolutions (May-June-July 2014) that were forwarded to me to review.

Our Policy as issued allows for the BPD to hold any person who is lawfully arrested for a criminal offense/criminal warrant in Brookline whose fingerprints are then electronically sent to the FBI data base and to compare against the existing data base for identification and criminal history purposes, something that is done with all arrestees, and if a we received a Federal Detainer via the Criminal Justice Information System we would hold the individual up to 48 hours. The other Cities policies allow for the release of an individual who was arrested on a minor criminal charge, with no past serious criminal history. There are exceptions allowed within these policies to hold subjects who fit this criteria, such as "public safety" concerns, I am assuming if you arrested a subject for a minor criminal offense but had reason to believe that the subject may have committed more serious offenses and need time to further investigate, you may honor the Federal Detainer. This is left up to the Supervisors of the police departments discretion.

We do not have a tracking protocol / procedure as the Boston & Cambridge policies establish to determine the number of persons held via detainers or released with detainers still outstanding.

In checking with the Brookline Police Prosecutor and the day shift Commanding Officer (who send our prisoners & paperwork to the Court), they report only a few individuals over the course of any year that have been arrested with detainers, and of that number, almost all have been held on state criminal charges pending court, not the detainer.

Brookline Court does not track detainer cases, only the associated criminal case.

Hope this is what you were looking for.

Mark

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